

117TH CONGRESS
2D SESSION

S. 5038

To reform the use of solitary confinement and other forms of restrictive housing in the Bureau of Prisons, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 2022

Mr. DURBIN (for himself, Mr. COONS, Mr. BOOKER, Mr. LEAHY, Mr. SCHATZ, Mr. MURPHY, and Ms. WARREN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To reform the use of solitary confinement and other forms of restrictive housing in the Bureau of Prisons, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Solitary Confinement
5 Reform Act”.

6 **SEC. 2. SOLITARY CONFINEMENT REFORMS.**

7 (a) AMENDMENT.—Chapter 303 of title 18, United
8 States Code, is amended by adding at the end the fol-
9 lowing:

1 **“§ 4052. Solitary confinement**

2 “(a) DEFINITIONS.—In this section:

3 “(1) ADMINISTRATIVE MAXIMUM FACILITY.—

4 The term ‘administrative maximum facility’ means a
 5 maximum-security facility, including the Administra-
 6 tive Maximum facility in Florence, Colorado, de-
 7 signed to house inmates who present an ongoing sig-
 8 nificant and serious threat to other inmates, staff,
 9 and the public.

10 “(2) ADMINISTRATIVE SEGREGATION.—The

11 term ‘administrative segregation’ means a nonpuni-
 12 tive form of solitary confinement that removes an in-
 13 dividual from the general population of a correc-
 14 tional facility for—

15 “(A) investigative, protective, or preventa-
 16 tive reasons resulting in a substantial and im-
 17 mediate threat; or

18 “(B) transitional reasons, including a
 19 pending transfer, pending classification, or
 20 other temporary administrative matter.

21 “(3) APPROPRIATE LEVEL OF CARE.—The term

22 ‘appropriate level of care’ means the appropriate
 23 treatment setting for mental health care that an in-
 24 mate with mental illness requires, which may include
 25 outpatient care, emergency or crisis services, day

1 treatment, supported residential housing, infirmary
2 care, or inpatient psychiatric hospitalization services.

3 “(4) DIRECTOR.—The term ‘Director’ means
4 the Director of the Bureau of Prisons.

5 “(5) DISCIPLINARY HEARING OFFICER.—The
6 term ‘disciplinary hearing officer’ means an em-
7 ployee of the Bureau of Prisons who is responsible
8 for conducting disciplinary hearings for which soli-
9 tary confinement may be a sanction, as described in
10 section 541.8 of title 28, Code of Federal Regula-
11 tions, or any successor thereto.

12 “(6) DISCIPLINARY SEGREGATION.—The term
13 ‘disciplinary segregation’ means a punitive form of
14 solitary confinement imposed only by a disciplinary
15 hearing officer as a sanction for committing a sig-
16 nificant and serious disciplinary infraction.

17 “(7) INTELLECTUAL DISABILITY.—The term
18 ‘intellectual disability’ means a significant mental
19 impairment characterized by significant limitations
20 in both intellectual functioning and in adaptive be-
21 havior.

22 “(8) MULTIDISCIPLINARY STAFF COM-
23 MITTEE.—The term ‘multidisciplinary staff com-
24 mittee’ means a committee—

1 “(A) made up of staff at the facility where
 2 an inmate resides who are responsible for re-
 3 viewing the initial placement of the inmate in
 4 solitary confinement and any extensions of time
 5 in solitary confinement; and

6 “(B) which shall include—

7 “(i) not less than 1 licensed mental
 8 health professional;

9 “(ii) not less than 1 medical profes-
 10 sional; and

11 “(iii) not less than 1 member of the
 12 leadership of the facility.

13 “(9) ONGOING SIGNIFICANT AND SERIOUS
 14 THREAT.—The term ‘ongoing significant and serious
 15 threat’ means an ongoing set of circumstances that
 16 require the highest level of security and staff super-
 17 vision for an inmate who, by the behavior of the in-
 18 mate—

19 “(A) has been identified as assaultive,
 20 predacious, riotous, or a serious escape risk;
 21 and

22 “(B) poses a great risk to other inmates,
 23 staff, and the public.

24 “(10) PROTECTION CASE.—The term ‘protec-
 25 tion case’ means an inmate who, by the request of

1 the inmate or through a staff determination, re-
2 quires protection, as described by section
3 541.23(c)(3) of title 28, Code of Federal Regula-
4 tions, or any successor thereto.

5 “(11) SERIOUS MENTAL ILLNESS.—The term
6 ‘serious mental illness’ means a substantial disorder
7 of thought or mood that significantly impairs judg-
8 ment, behavior, capacity to recognize reality, or abil-
9 ity to cope with the ordinary demands of life.

10 “(12) SIGNIFICANT AND SERIOUS DISCIPLINARY
11 INFRACTION.—The term ‘significant and serious dis-
12 ciplinary infraction’ means—

13 “(A) an act of violence that either—

14 “(i) resulted in or was likely to result
15 in serious injury or death to another; or

16 “(ii) occurred in connection with any
17 act of nonconsensual sex;

18 “(B) an escape, attempted escape, or con-
19 spiracy to escape from within a security perim-
20 eter or custody, or both; or

21 “(C) possession of weapons, possession of
22 illegal narcotics with intent to distribute, or
23 other similar, severe threats to the safety of the
24 inmate, other inmates, staff, or the public.

1 “(13) SOLITARY CONFINEMENT.—The term
2 ‘solitary confinement’ means confinement character-
3 ized by substantial isolation in a cell, alone or with
4 other inmates, including administrative segregation,
5 disciplinary segregation, and confinement in any fa-
6 cility designated by the Bureau of Prisons as a spe-
7 cial housing unit, special management unit, or ad-
8 ministrative maximum facility.

9 “(14) SPECIAL ADMINISTRATIVE MEASURES.—
10 The term ‘special administrative measures’ means
11 reasonably necessary measures used to—

12 “(A) prevent disclosure of classified infor-
13 mation upon written certification to the Attor-
14 ney General by the head of an element of the
15 intelligence community (as defined under sec-
16 tion 3 of the National Security Act of 1947 (50
17 U.S.C. 3003)) that the unauthorized disclosure
18 of such information would pose a threat to the
19 national security and that there is a danger
20 that the inmate will disclose such information,
21 as described by section 501.2 of title 28, Code
22 of Federal Regulations, or any successor there-
23 to; or

24 “(B) protect persons against the risk of
25 death or serious bodily injury, upon written no-

1 tification to the Director by the Attorney Gen-
2 eral or, at the Attorney General’s direction, by
3 the head of a Federal law enforcement agency,
4 or the head of an element of the intelligence
5 community (as defined under section 3 of the
6 National Security Act of 1947 (50 U.S.C.
7 3003)), that there is a substantial risk that the
8 communications of an inmate or contacts by the
9 inmate with other persons could result in death
10 or serious bodily injury to persons, or substan-
11 tial damage to property that would entail the
12 risk of death or serious bodily injury to persons,
13 as described by section 501.3 of title 28, Code
14 of Federal Regulations, or any successor there-
15 to.

16 “(15) SPECIAL HOUSING UNIT.—The term ‘spe-
17 cial housing unit’ means a housing unit in an insti-
18 tution of the Bureau of Prisons in which inmates
19 are securely separated from the general inmate pop-
20 ulation for disciplinary or administrative reasons, as
21 described in section 541.21 of title 28, Code of Fed-
22 eral Regulations, or any successor thereto.

23 “(16) SPECIAL MANAGEMENT UNIT.—The term
24 ‘special management unit’ means a nonpunitive
25 housing program with multiple, step-down phases for

1 inmates whose history, behavior, or situation re-
2 quires enhanced management approaches in order to
3 ensure the safety of other inmates, the staff, and the
4 public.

5 “(17) SUBSTANTIAL AND IMMEDIATE
6 THREAT.—The term ‘substantial and immediate
7 threat’ means any set of temporary and unforeseen
8 circumstances that require immediate action in order
9 to combat a threat to the safety of an inmate, other
10 inmates, staff, or the public.

11 “(b) USE OF SOLITARY CONFINEMENT.—

12 “(1) IN GENERAL.—The placement of a Federal
13 inmate in solitary confinement within the Bureau of
14 Prisons or any facility that contracts with the Bu-
15 reau of Prisons to provide housing for inmates in
16 Federal custody shall be limited to situations in
17 which such confinement—

18 “(A) is limited to the briefest term and the
19 least restrictive conditions practicable, including
20 not less than 4 hours of out-of-cell time every
21 day, unless the inmate poses a substantial and
22 immediate threat;

23 “(B) is consistent with the rationale for
24 placement and with the progress achieved by
25 the inmate;

1 “(C) allows the inmate to participate in
2 meaningful programming opportunities and
3 privileges as consistent with those available in
4 the general population as practicable, either in-
5 dividualy or in a classroom setting;

6 “(D) allows the inmate to have as much
7 meaningful interaction with others, such as
8 other inmates, visitors, clergy, or licensed men-
9 tal health professionals, as practicable; and

10 “(E) complies with the provisions of this
11 section.

12 “(2) TRANSITIONAL PROCESS FOR INMATES IN
13 SOLITARY CONFINEMENT.—

14 “(A) INMATES WITH UPCOMING RELEASE
15 DATES.—The Director shall establish—

16 “(i) policies to ensure that an inmate
17 with an anticipated release date of 180
18 days or less is not housed in solitary con-
19 finement, unless—

20 “(I) such confinement is limited
21 to not more than 5 days of adminis-
22 trative segregation relating to the up-
23 coming release of the inmate; or

24 “(II) the inmate poses a substan-
25 tial and immediate threat; and

1 “(ii) a transitional process for each
 2 inmate with an anticipated release date of
 3 180 days or less who is held in solitary
 4 confinement under clause (i)(II), which
 5 shall include—

6 “(I) substantial re-socialization
 7 programming in a group setting;

8 “(II) regular mental health coun-
 9 seling to assist with the transition;
 10 and

11 “(III) re-entry planning services
 12 offered to inmates in a general popu-
 13 lation setting.

14 “(B) INMATES IN LONG-TERM SOLITARY
 15 CONFINEMENT.—The Director shall establish a
 16 transitional process for each inmate who has
 17 been held in solitary confinement for more than
 18 30 days and who will transition into a general
 19 population unit, which shall include—

20 “(i) substantial re-socialization pro-
 21 gramming in a group setting; and

22 “(ii) regular mental health counseling
 23 to assist with the transition.

24 “(3) PROTECTIVE CUSTODY UNITS.—The Di-
 25 rector—

1 “(A) shall establish within the Federal
2 prison system additional general population
3 protective custody units that provide sheltered
4 general population housing to protect inmates
5 from harm that they may otherwise be exposed
6 to in a typical general population housing unit;

7 “(B) shall establish policies to ensure that
8 an inmate who is considered a protection case
9 shall, upon request of the inmate, be placed in
10 a general population protective custody unit;

11 “(C) shall create an adequate number of
12 general population protective custody units to—

13 “(i) accommodate the requests of in-
14 mates who are considered to be protection
15 cases; and

16 “(ii) ensure that inmates who are con-
17 sidered to be protection cases are placed in
18 facilities as close to their homes as prac-
19 ticable; and

20 “(D) may not place an inmate who is con-
21 sidered to be a protection case in solitary con-
22 finement due to the status of the inmate as a
23 protection case unless—

24 “(i) the inmate requests to be placed
25 in solitary confinement, in which case, at

1 the request of the inmate the inmate shall
2 be transferred to a general population pro-
3 tective custody unit or, if appropriate, a
4 different general population unit; or

5 “(ii) such confinement is limited to—

6 “(I) not more than 5 days of ad-
7 ministrative segregation; and

8 “(II) is necessary to protect the
9 inmate during preparation for trans-
10 fer to a general population protective
11 custody unit or a different general
12 population unit.

13 “(4) VULNERABLE POPULATIONS.—The Bureau
14 of Prisons or any facility that contracts with the Bu-
15 reau of Prisons shall not place an inmate in solitary
16 confinement if—

17 “(A) the inmate has a serious mental ill-
18 ness, has an intellectual disability, has a phys-
19 ical disability that a licensed medical profes-
20 sional finds is likely to be exacerbated by place-
21 ment in solitary confinement, is pregnant or in
22 the first 8 weeks of the postpartum recovery pe-
23 riod after giving birth, or has been determined
24 by a licensed mental health professional to like-

1 ly be significantly adversely affected by place-
2 ment in solitary confinement, unless—

3 “(i) the inmate poses a substantial
4 and immediate threat;

5 “(ii) all other options to de-escalate
6 the situation have been exhausted, includ-
7 ing less restrictive techniques such as—

8 “(I) penalizing the inmate
9 through loss of privileges;

10 “(II) speaking with the inmate in
11 an attempt to de-escalate the situa-
12 tion; and

13 “(III) a licensed mental health
14 professional providing an appropriate
15 level of care;

16 “(iii) such confinement is limited to
17 the briefest term and the least restrictive
18 conditions practicable, including access to
19 medical and mental health treatment;

20 “(iv) such confinement is reviewed by
21 a multidisciplinary staff committee for ap-
22 propriateness every 24 hours; and

23 “(v) as soon as practicable, but not
24 later than 5 days after such confinement

1 begins, the inmate is diverted, upon release
2 from solitary confinement, to—

3 “(I) a general population unit;

4 “(II) a protective custody unit
5 described in paragraph (3); or

6 “(III) a mental health treatment
7 program as described in subsection
8 (c)(2);

9 “(B) the inmate is lesbian, gay, bisexual,
10 transgender (as defined in section 115.5 of title
11 28, Code of Federal Regulations, or any suc-
12 cessor thereto), intersex (as defined in section
13 115.5 of title 28, Code of Federal Regulations,
14 or any successor thereto), or gender noncon-
15 forming (as defined in section 115.5 of title 28,
16 Code of Federal Regulations, or any successor
17 thereto), when such placement is solely on the
18 basis of such identification or status; or

19 “(C) the inmate is HIV positive, if the
20 placement is solely on the basis of the HIV
21 positive status of the inmate.

22 “(5) SPECIAL HOUSING UNITS.—The Director
23 shall—

24 “(A) limit administrative segregation—

1 “(i) to situations in which such seg-
2regation is necessary to—

3 “(I) control a substantial and im-
4mediate threat that cannot be ad-
5dressed through alternative housing;
6or

7 “(II) temporarily house an in-
8mate pending transfer, pending classi-
9fication, or pending resolution of an-
10other temporary administrative mat-
11ter; and

12 “(ii) to a duration of not more than
1315 consecutive days, and not more than 20
14days in a 60-day period, unless—

15 “(I) the inmate requests to re-
16main in administrative segregation
17under paragraph (3)(D)(i); or

18 “(II) in order to address the con-
19tinued existence of a substantial and
20immediate threat, a multidisciplinary
21staff committee approves a temporary
22extension, which—

23 “(aa) may not be longer
24than 15 days; and

1 “(bb) shall be reviewed by
2 the multidisciplinary staff com-
3 mittee every 3 days during the
4 period of the extension, in order
5 to confirm the continued exist-
6 ence of the substantial and im-
7 mediate threat;

8 “(B) limit disciplinary segregation—

9 “(i) to situations in which such seg-
10 regation is necessary to punish an inmate
11 who has been found to have committed a
12 significant and serious disciplinary infrac-
13 tion by a disciplinary hearing officer and
14 alternative sanctions would not adequately
15 regulate the behavior of the inmate; and

16 “(ii) to a duration of not more than
17 30 consecutive days, and not more than 40
18 days in a 60-day period, unless a multi-
19 disciplinary staff committee, in consulta-
20 tion with the disciplinary hearing officer
21 who presided over the inmate’s disciplinary
22 hearing, determines that the significant
23 and serious disciplinary infraction of which
24 the inmate was found guilty is of such an
25 egregious and violent nature that a longer

1 sanction is appropriate and approves a
2 longer sanction, which—

3 “(I) may be not more than 60
4 days in a special housing unit if the
5 inmate has never before been found
6 guilty of a similar significant and seri-
7 ous disciplinary infraction; or

8 “(II) may be not more than 90
9 days in a special housing unit if the
10 inmate has previously been found
11 guilty of a similar significant and seri-
12 ous disciplinary infraction;

13 “(C) ensure that any time spent in admin-
14 istrative segregation during an investigation
15 into an alleged offense is credited as time
16 served for a disciplinary segregation sentence;

17 “(D) ensure that concurrent sentences are
18 imposed for disciplinary violations arising from
19 the same episode; and

20 “(E) ensure that an inmate may be re-
21 leased from disciplinary segregation for good
22 behavior before completing the term of the in-
23 mate, unless the inmate poses a substantial and
24 immediate threat to the safety of other inmates,
25 staff, or the public.

1 “(6) SPECIAL MANAGEMENT UNITS.—The Di-
2 rector shall—

3 “(A) limit segregation in a special manage-
4 ment unit to situations in which such segrega-
5 tion is necessary to temporarily house an in-
6 mate whose history, behavior, or circumstances
7 require enhanced management approaches that
8 cannot be addressed through alternative hous-
9 ing;

10 “(B) evaluate whether further reductions
11 to the minimum and maximum number of
12 months an inmate may spend in a special man-
13 agement unit are appropriate on an annual
14 basis;

15 “(C) ensure that each inmate understands
16 the status of the inmate in the special manage-
17 ment unit program and how the inmate may
18 progress through the program; and

19 “(D) further reduce the minimum and
20 maximum number of months an inmate may
21 spend in a special management unit if the Di-
22 rector determines such reductions are appro-
23 priate after evaluations are performed under
24 subparagraph (B).

1 “(7) ADMINISTRATIVE MAXIMUM FACILITIES.—

2 The Director shall—

3 “(A) limit segregation in an administrative
4 maximum facility to situations in which such
5 segregation is necessary to—

6 “(i) implement special administrative
7 measures, as directed by the Attorney Gen-
8 eral; or

9 “(ii) house an inmate who poses an
10 ongoing significant and serious threat to
11 the safety of other inmates, staff, or the
12 public that cannot be addressed through
13 alternative housing; and

14 “(B) issue final approval of referral of any
15 inmate who poses an ongoing significant and
16 serious threat for placement in an Administra-
17 tive Maximum facility, including the United
18 States Penitentiary Administrative Maximum in
19 Florence, Colorado.

20 “(8) RIGHT TO REVIEW PLACEMENT IN SOLI-
21 TARY CONFINEMENT.—The Director shall ensure
22 that each inmate placed in solitary confinement has
23 access to—

24 “(A) written notice thoroughly detailing
25 the basis for placement or continued placement

1 in solitary confinement not later than 6 hours
2 after the beginning of such placement, includ-
3 ing—

4 “(i) thorough documentation explain-
5 ing why such confinement is permissible
6 and necessary under paragraph (1); and

7 “(ii) if an exception under paragraph
8 (2)(A), (3)(D), (4)(A), (4)(B), (5)(A), or
9 (5)(B) is used to justify placement in soli-
10 tary confinement or under paragraph (1)
11 to justify increased restrictive conditions in
12 solitary confinement, thorough documenta-
13 tion explaining why such an exception ap-
14 plied;

15 “(B) a timely, thorough, and continuous
16 review process that—

17 “(i) occurs within not less than 3 days
18 of placement in solitary confinement, and
19 thereafter at least—

20 “(I) on a weekly basis for in-
21 mates in special housing units;

22 “(II) on a monthly basis for in-
23 mates in special management units;
24 and

1 “(III) on a monthly basis for in-
2 mates at an administrative maximum
3 facility;

4 “(ii) includes private, face-to-face
5 interviews with a multidisciplinary staff
6 committee; and

7 “(iii) examines whether—

8 “(I) placement in solitary con-
9 finement was and remains necessary;

10 “(II) the conditions of confine-
11 ment comply with this section; and

12 “(III) whether any exception
13 under paragraph (2)(A), (3)(D),
14 (4)(A), (4)(B), (5)(A), or (5)(B) used
15 to justify placement in solitary con-
16 finement or under paragraph (1) used
17 to justify increased restrictive condi-
18 tions in solitary confinement was and
19 remains warranted;

20 “(C) a process to appeal the initial place-
21 ment or continued placement of the inmate in
22 solitary confinement;

23 “(D) prompt and timely written notice of
24 the appeal procedures; and

1 “(E) copies of all documents, files, and
2 records relating to the inmate’s placement in
3 solitary confinement, unless such documents
4 contain contraband, classified information, or
5 sensitive security-related information.

6 “(c) MENTAL HEALTH CARE FOR INMATES IN SOLI-
7 TARY CONFINEMENT.—

8 “(1) MENTAL HEALTH SCREENING.—Not later
9 than 6 hours after an inmate in the custody of the
10 Bureau of Prisons or any facility that contracts with
11 the Bureau of Prisons to provide housing for in-
12 mates in Federal custody is placed in solitary con-
13 finement, the inmate shall receive a comprehensive,
14 face-to-face mental health evaluation by a licensed
15 mental health professional in a confidential setting.

16 “(2) MENTAL HEALTH TREATMENT PRO-
17 GRAM.—An inmate diagnosed with a serious mental
18 illness after an evaluation required under paragraph
19 (1)—

20 “(A) shall not be placed in solitary confine-
21 ment in accordance with subsection (b)(4); and

22 “(B) may be diverted to a mental health
23 treatment program within the Bureau of Pris-
24 ons that provides an appropriate level of care to
25 address the inmate’s mental health needs.

1 “(3) CONTINUING EVALUATIONS.—After each
2 14-calendar-day period an inmate is held in contin-
3 uous placement in solitary confinement—

4 “(A) a licensed mental health professional
5 shall conduct a comprehensive, face-to-face, out-
6 of-cell mental health evaluation of the inmate in
7 a confidential setting; and

8 “(B) the Director shall adjust the place-
9 ment of the inmate in accordance with this sub-
10 section.

11 “(4) REQUIREMENT.—The Director shall oper-
12 ate mental health treatment programs in order to
13 ensure that inmates of all security levels with serious
14 mental illness have access to an appropriate level of
15 care.

16 “(d) TRAINING FOR BUREAU OF PRISONS STAFF.—

17 “(1) TRAINING.—All employees of the Bureau
18 of Prisons or any facility that contracts with the Bu-
19 reau of Prisons to provide housing for inmates in
20 Federal custody who interact with inmates on a reg-
21 ular basis shall be required to complete training in—

22 “(A) the recognition of symptoms of men-
23 tal illness;

24 “(B) the potential risks and side effects of
25 psychiatric medications;

1 “(C) de-escalation techniques for safely
2 managing individuals with mental illness;

3 “(D) consequences of untreated mental ill-
4 ness;

5 “(E) the long- and short-term psycho-
6 logical effects of solitary confinement; and

7 “(F) de-escalation and communication
8 techniques to divert inmates from situations
9 that may lead to the inmate being placed in sol-
10 itary confinement.

11 “(2) NOTIFICATION TO MEDICAL STAFF.—An
12 employee of the Bureau of Prisons shall immediately
13 notify a member of the medical or mental health
14 staff if the employee—

15 “(A) observes an inmate with signs of
16 mental illness, unless such employee has knowl-
17 edge that the inmate’s signs of mental illness
18 have previously been reported; or

19 “(B) observes an inmate with signs of
20 mental health crisis.

21 “(e) CIVIL RIGHTS OMBUDSMAN.—

22 “(1) IN GENERAL.—Within the Bureau of Pris-
23 ons, there shall be a position of the Civil Rights Om-
24 budsman (referred to in this subsection as the ‘Om-

1 budsman’) and an Office of the Civil Rights Om-
2 budsman.

3 “(2) APPOINTMENT.—The Ombudsman shall be
4 appointed by the Attorney General and shall report
5 directly to the Director. The Ombudsman shall have
6 a background in corrections and civil rights and
7 shall have expertise on the effects of prolonged soli-
8 tary confinement.

9 “(3) REPORTING.—The Director shall ensure
10 that each Bureau of Prisons facility or any facility
11 that contracts with the Bureau of Prisons provides
12 multiple internal ways for inmates and others to
13 promptly report civil rights violations and violations
14 of this section to the Ombudsman, including—

15 “(A) not less than 2 procedures for in-
16 mates and others to report civil rights violations
17 and violations of this section to an entity or of-
18 fice that is not part of the facility, and that is
19 able to receive and immediately forward inmate
20 reports to the Ombudsman, allowing the inmate
21 to remain anonymous upon request; and

22 “(B) not less than 2 procedures for in-
23 mates and others to report civil rights abuses
24 and violations of this section to the Ombuds-

1 man in a confidential manner, allowing the in-
2 mate to remain anonymous upon request.

3 “(4) NOTICE.—The Director shall ensure that
4 each Bureau of Prisons facility or any facility that
5 contracts with the Bureau of Prisons provides in-
6 mates with—

7 “(A) notice of how to report civil rights
8 violations and violations of this section in ac-
9 cordance with paragraph (3), including—

10 “(i) notice prominently posted in the
11 living and common areas of each such fa-
12 cility;

13 “(ii) individual notice to inmates at
14 initial intake into the Bureau of Prisons,
15 when transferred to a new facility, and
16 when placed in solitary confinement;

17 “(iii) notice to inmates with disabil-
18 ities in accessible formats; and

19 “(iv) written or verbal notice in a lan-
20 guage the inmate understands; and

21 “(B) notice of permissible practices related
22 to solitary confinement in the Bureau of Pris-
23 ons, including the requirements of this section.

24 “(5) FUNCTIONS.—The Ombudsman shall—

1 “(A) review all complaints the Ombudsman
2 receives;

3 “(B) investigate all complaints that allege
4 a civil rights violation or violation of this sec-
5 tion;

6 “(C) refer all possible violations of law to
7 the Department of Justice;

8 “(D) refer to the Director allegations of
9 misconduct involving Bureau of Prisons staff;

10 “(E) identify areas in which the Bureau of
11 Prisons can improve the Bureau’s policies and
12 practices to ensure that the civil rights of in-
13 mates are protected;

14 “(F) identify areas in which the Bureau of
15 Prisons can improve the solitary confinement
16 policies and practices of the Bureau and reduce
17 the use of solitary confinement; and

18 “(G) propose changes to the policies and
19 practices of the Bureau of Prisons to mitigate
20 problems and address issues the Ombudsman
21 identifies.

22 “(6) ACCESS.—The Ombudsman shall have un-
23 restricted access to Bureau of Prisons facilities and
24 any facility that contracts with the Bureau of Pris-

1 ons and shall be able to speak privately with inmates
2 and staff.

3 “(7) ANNUAL REPORTS.—

4 “(A) OBJECTIVES.—Not later than De-
5 cember 31 of each year, the Ombudsman shall
6 submit to the Committee on the Judiciary of
7 the Senate and the Committee on the Judiciary
8 of the House of Representatives a report on the
9 activities of the Office of the Ombudsman for
10 the fiscal year ending in such calendar year.

11 “(B) CONTENTS.—Each report submitted
12 under subparagraph (A) shall—

13 “(i) contain full and substantive anal-
14 ysis, in addition to statistical information;

15 “(ii) identify the recommendations the
16 Office of the Ombudsman has made on ad-
17 dressing reported civil rights violations and
18 violations of this section and reducing the
19 use and improving the practices of solitary
20 confinement in the Bureau of Prisons;

21 “(iii) contain a summary of problems
22 relating to reported civil rights violations
23 and violations of this section, including a
24 detailed description of the nature of such
25 problems and a breakdown of where the

1 problems occur among Bureau of Prisons
2 facilities and facilities that contract with
3 the Bureau of Prisons;

4 “(iv) contain an inventory of the items
5 described in clauses (ii) and (iii) for which
6 action has been taken and the result of
7 such action;

8 “(v) contain an inventory of the items
9 described in clauses (ii) and (iii) for which
10 action remains to be completed and the pe-
11 riod during which each item has remained
12 on such inventory;

13 “(vi) contain an inventory of the items
14 described in clauses (ii) and (iii) for which
15 no action has been taken, the period dur-
16 ing which each item has remained on such
17 inventory, the reasons for the inaction, and
18 shall identify any official of the Bureau of
19 Prisons who is responsible for such inac-
20 tion;

21 “(vii) contain recommendations for
22 such legislative or administrative action as
23 may be appropriate to resolve problems
24 identified in clause (iii); and

1 “(viii) include such other information
2 as the Ombudsman determines necessary.

3 “(C) SUBMISSION OF REPORTS.—Each re-
4 port required under this paragraph shall be
5 provided directly to the Committees described
6 in subparagraph (A) without any prior review,
7 comment, or amendment from the Director or
8 any other officer or employee of the Depart-
9 ment of Justice or Bureau of Prisons.

10 “(8) REGULAR MEETINGS WITH THE DIRECTOR
11 OF THE BUREAU OF PRISONS.—The Ombudsman
12 shall meet regularly with the Director to identify
13 problems with reported civil rights violations and the
14 solitary confinement policies and practices of the
15 Bureau of Prisons, including overuse of solitary con-
16 finement, and to present recommendations for such
17 administrative action as may be appropriate to re-
18 solve problems relating to reported civil rights viola-
19 tions and the solitary confinement policies and prac-
20 tices of the Bureau of Prisons.

21 “(9) RESPONSIBILITIES OF BUREAU OF PRIS-
22 ONS.—The Director shall establish procedures re-
23 quiring that, not later than 3 months after the date
24 on which a recommendation is submitted to the Di-
25 rector by the Ombudsman, the Director or other ap-

1 appropriate employee of the Bureau of Prisons issue a
2 formal response to the recommendation.

3 “(10) NON-APPLICATION OF THE PRISON LITI-
4 GATION REFORM ACT.—Inmate reports sent to the
5 Ombudsman shall not be considered an administra-
6 tive remedy under section 7(a) of the Civil Rights of
7 Institutionalized Persons Act (42 U.S.C.
8 1997e(a)).”.

9 (b) TECHNICAL AND CONFORMING AMENDMENT.—
10 The table of sections for chapter 303 of title 18, United
11 States Code, is amended by inserting after the item relat-
12 ing to section 4051 the following:

“4052. Solitary confinement.”.

13 **SEC. 3. REASSESSMENT OF INMATE MENTAL HEALTH.**

14 Not later than 180 days after the date of enactment
15 of this Act, the Director of the Bureau of Prisons shall—

16 (1) assemble a team of licensed mental health
17 professionals, which may include licensed mental
18 health professionals who are not employed by the
19 Bureau of Prisons, to conduct a comprehensive men-
20 tal health reevaluation for each inmate held in soli-
21 tary confinement for more than 30 days as of the
22 date of enactment of this Act, including a confiden-
23 tial, face-to-face, out-of-cell interview by a licensed
24 mental health professional; and

1 (2) adjust the placement of each inmate in ac-
2 cordance with section 4052(c) of title 18, United
3 States Code, as added by section 2.

4 **SEC. 4. DIRECTOR OF BUREAU OF PRISONS.**

5 Section 4041 of title 18, United States Code, is
6 amended—

7 (1) by inserting “(a) IN GENERAL.—” before
8 the “The Bureau of Prisons shall be”; and

9 (2) by adding at the end the following:

10 “(b) OMBUDSMAN.—The Director of the Bureau of
11 Prisons shall—

12 “(1) meet regularly with the Ombudsman ap-
13 pointed under section 4052(e) to identify how the
14 Bureau of Prisons can address reported civil rights
15 violations and reduce the use of solitary confinement
16 and correct problems in the solitary confinement
17 policies and practices of the Bureau;

18 “(2) conduct a prompt and thorough investiga-
19 tion of each referral from the Ombudsman under
20 section 4052(e)(5)(D), after each such investigation
21 take appropriate disciplinary action against any Bu-
22 reau of Prisons employee who is found to have en-
23 gaged in misconduct or to have violated Bureau of
24 Prisons policy, and notify the Ombudsman of the
25 outcome of each such investigation; and

1 “(3) establish procedures requiring a formal re-
2 sponse by the Bureau of Prisons to any rec-
3 ommendation of the Ombudsman in the annual re-
4 port submitted under section 4052(e)(7) not later
5 than 90 days after the date on which the report is
6 submitted to Congress.”.

7 **SEC. 5. DATA TRACKING OF USE OF SOLITARY CONFINEMENT.**
8 **MENT.**

9 Section 4047 of title 18, United States Code, is
10 amended by adding at the end the following:

11 “(d) PRISON SOLITARY CONFINEMENT ASSESS-
12 MENTS.—

13 “(1) IN GENERAL.—Not later than March 31 of
14 each year, the Director of the Bureau of Prisons
15 shall prepare and transmit to the Committee on the
16 Judiciary of the Senate and the Committee on the
17 Judiciary of the House of Representatives an annual
18 assessment of the use of solitary confinement, as de-
19 fined in section 4052(a), by the Bureau of Prisons.

20 “(2) CONTENTS.—Each assessment submitted
21 under paragraph (1) shall include—

22 “(A) the policies and regulations of the
23 Bureau of Prisons, including any changes in
24 policies and regulations, for determining which
25 inmates are placed in each form of solitary con-

1 finement, or housing in which an inmate is sep-
2 parated from the general population in use dur-
3 ing the reporting period, and a detailed descrip-
4 tion of each form of solitary confinement in use,
5 including all maximum and high security facili-
6 ties, all special housing units, all special man-
7 agement units, all Administrative Maximum fa-
8 cilities, including the United States Peniten-
9 tiary Administrative Maximum in Florence, Col-
10 orado, and all Communication Management
11 Units;

12 “(B) the number of inmates in the custody
13 of the Bureau of Prisons who are housed in
14 each type of solitary confinement described in
15 subparagraph (A) for any period and the per-
16 centage of all inmates who have spent at least
17 some time in each form of solitary confinement
18 during the reporting period;

19 “(C) the demographics of all inmates
20 housed in each type of solitary confinement de-
21 scribed in subparagraph (A), including race,
22 ethnicity, religion, age, and gender;

23 “(D) the policies and regulations of the
24 Bureau of Prisons, including any updates in
25 policies and regulations, for subsequent reviews

1 or appeals of the placement of an inmate into
2 or out of solitary confinement;

3 “(E) the number of reviews of and chal-
4 lenges to each type of solitary confinement
5 placement described in subparagraph (A) con-
6 ducted during the reporting period and the
7 number of reviews or appeals that directly re-
8 sulted in a change of placement;

9 “(F) the general conditions and restric-
10 tions for each type of solitary confinement de-
11 scribed in subparagraph (A), including the
12 number of hours spent in ‘isolation,’ or re-
13 straint, for each, and the percentage of time
14 these conditions involve single-inmate housing;

15 “(G) the mean and median length of stay
16 in each form of solitary confinement described
17 in subparagraph (A), based on all individuals
18 released from solitary confinement during the
19 reporting period, including maximum and high
20 security facilities, special housing units, special
21 management units, the Administrative Max-
22 imum facilities, including the United States
23 Penitentiary Administrative Maximum in Flor-
24 ence, Colorado, Communication Management

1 Units, and any maximum length of stay during
2 the reporting period;

3 “(H) the number of inmates who, after a
4 stay of 5 or more days in solitary confinement,
5 were released directly from solitary confinement
6 to the public during the reporting period;

7 “(I) the cost for each form of solitary con-
8 finement described in subparagraph (A) in use
9 during the reporting period, including as com-
10 pared with the average daily cost of housing an
11 inmate in the general population;

12 “(J) statistics for inmate assaults on cor-
13 rectional officers and staff of the Bureau of
14 Prisons, inmate-on-inmate assaults, and staff-
15 on-inmate use of force incidents in the various
16 forms of solitary confinement described in sub-
17 paragraph (A) and statistics for such assaults
18 in the general population;

19 “(K) the policies for mental health screen-
20 ing, mental health treatment, and subsequent
21 mental health reviews for all inmates, including
22 any update to the policies, and any additional
23 screening, treatment, and monitoring for in-
24 mates in solitary confinement;

1 “(L) a statement of the types of mental
2 health staff that conducted mental health as-
3 sessments for the Bureau of Prisons during the
4 reporting period, a description of the different
5 positions in the mental health staff of the Bu-
6 reau of Prisons, and the number of part- and
7 full-time psychologists and psychiatrists em-
8 ployed by the Bureau of Prisons during the re-
9 porting period;

10 “(M) data on mental health and medical
11 indicators for all inmates in solitary confine-
12 ment, including—

13 “(i) the number of inmates requiring
14 medication for mental health conditions;

15 “(ii) the number diagnosed with an
16 intellectual disability;

17 “(iii) the number diagnosed with seri-
18 ous mental illness;

19 “(iv) the number of suicides;

20 “(v) the number of attempted suicides
21 and number of inmates placed on suicide
22 watch;

23 “(vi) the number of instances of self-
24 harm committed by inmates;

1 “(vii) the number of inmates with
2 physical disabilities, including blind, deaf,
3 and mobility-impaired inmates; and

4 “(viii) the number of instances of
5 forced feeding of inmates; and

6 “(N) any other relevant data.”.

7 **SEC. 6. NATIONAL RESOURCE CENTER ON SOLITARY CON-**
8 **FINEMENT REDUCTION AND REFORM.**

9 (a) **DEFINITION OF ELIGIBLE ENTITY.**—In this sec-
10 tion, the term “eligible entity” means an entity, or a part-
11 nership of entities, that has demonstrated expertise in the
12 fields of—

13 (1) solitary confinement, including the reduc-
14 tion and reform of its use; and

15 (2) providing technical assistance to corrections
16 agencies on how to reduce and reform solitary con-
17 finement.

18 (b) **REQUIREMENTS.**—Not later than 180 days after
19 the date of enactment of this Act, the Bureau of Justice
20 Assistance shall enter into a cooperative agreement, on a
21 competitive basis, with an eligible entity for the purpose
22 of establishing a coordinating center for State, local, and
23 Federal corrections systems, which shall conduct activities
24 such as—

1 (1) providing on-site technical assistance and
2 consultation to Federal, State, and local corrections
3 agencies to safely reduce the use of solitary confine-
4 ment;

5 (2) acting as a clearinghouse for research, data,
6 and information on the safe reduction of solitary
7 confinement in prisons and other custodial settings,
8 including facilitating the exchange of information be-
9 tween Federal, State, and local practitioners, na-
10 tional experts, and researchers;

11 (3) creating a minimum of 10 learning sites in
12 Federal, State, and local jurisdictions that have al-
13 ready reduced their use of solitary confinement and
14 work with other Federal, State, and local agencies to
15 participate in training, consultation, and other forms
16 of assistance and partnership with these learning
17 sites;

18 (4) conducting evaluations of jurisdictions that
19 have decreased their use of solitary confinement to
20 determine best practices;

21 (5) conducting research on the effectiveness of
22 alternatives to solitary confinement, such as step-
23 down or transitional programs, strategies to re-
24 integrate inmates into general population, the role of
25 officers and staff culture in reform efforts, and other

1 research relevant to the safe reduction of solitary
2 confinement;

3 (6) developing and disseminating a toolkit for
4 systems to reduce the excessive use of solitary con-
5 finement;

6 (7) developing and disseminating an online self-
7 assessment tool for State and local jurisdictions to
8 assess their own use of solitary confinement and
9 identify strategies to reduce its use; and

10 (8) conducting public webinars to highlight new
11 and promising practices.

12 (c) ADMINISTRATION.—The program under this sec-
13 tion shall be administered by the Bureau of Justice Assist-
14 ance.

15 (d) REPORT.—On an annual basis, the coordinating
16 center shall report to the Committee on the Judiciary of
17 the Senate and the Committee on the Judiciary of the
18 House of Representatives on its activities and any changes
19 in solitary confinement policy at the Federal, State, or
20 local level that have resulted from its activities.

21 (e) DURATION.—The Bureau of Justice Assistance
22 shall enter into a cooperative agreement under this section
23 for 5 years.

24 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

25 There is authorized to be appropriated—

1 (1) to the Director of the Bureau of Prisons
2 such sums as may be necessary to carry out sections
3 2, 3, 4, and 5, and the amendments made by such
4 sections; and

5 (2) to the Bureau of Justice Assistance such
6 sums as may be necessary to carry out section 6.

7 **SEC. 8. NOTICE AND COMMENT REQUIREMENT.**

8 The Director of the Bureau of Prisons shall prescribe
9 rules, in accordance with section 553 of title 5, United
10 States Code, to carry out this Act and the amendments
11 made by this Act.

12 **SEC. 9. EFFECTIVE DATE.**

13 Except as otherwise provided, this Act and the
14 amendments made by this Act shall take effect 18 months
15 after the date of enactment of this Act.

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